

429; *Smith v. Devecmon*, 30 Md. 480; *Harrison v. State*, 22 Md. 493; *Jamison v. Jamison*, 4 Md. Ch. 293. (For the present law on this subject, see the Maryland constitution).

As to alimony, see sec. 14. See also, notes to sections 37, 38 and 39.

The testimony of the plaintiff in divorce cases must be corroborated—art. 35, sec. 4.

1904, art. 16, sec. 36. 1888, art. 16, sec. 36. 1860, art. 16, sec. 25. 1841, ch. 262, sec. 2. 1844, ch. 306. 1846, ch. 340. 1849, ch. 245.  
1872, ch. 272. 1888, ch. 486.

**37.** Upon a hearing of any bill for a divorce, the court may decree a divorce *a vinculo matrimonii* for the following causes, to wit: first, the impotence of either party at the time of the marriage; secondly, for any cause which, by the laws of this State, render a marriage null and void *ab initio*; thirdly, for adultery; fourthly, when the court shall be satisfied by competent testimony that the party complained against has abandoned the party complaining, and that such abandonment has continued uninterruptedly for at least three years, and is deliberate and final, and the separation of the parties beyond any reasonable expectation of reconciliation; fifthly, when the woman before marriage has been guilty of illicit carnal intercourse with another man, the same being unknown to the husband at the time of the marriage, and when such carnal connection shall be proved to the satisfaction of the court.

#### Abandonment.

Abandonment to constitute a ground of divorce under this section, must be the deliberate act of the defendant done with the intent to terminate the marriage relations; proof of abandonment. The facts upon which the opinion of a witness as to the nature of the abandonment are based, must be stated. Abandonment not made out. *Twigg v. Twigg*, 107 Md. 677; *Wheeler v. Wheeler*, 101, Md. 427; *Gill v. Gill*, 93 Md. 652; *Goodhues v. Goodhues*, 90 Md. 292; *Lynch v. Lynch*, 33 Md. 329; *Levering v. Levering*, 16 Md. 218. *Cf. Matthews v. Matthews*, 112 Md. 583.

When the action of the husband in compelling his wife to leave him, will amount to an abandonment by the husband; abandonment not made out. *Levering v. Levering*, 16 Md. 218; *Wheeler v. Wheeler*, 101 Md. 432; *Harding v. Harding*, 22 Md. 337.

#### Generally.

This and the following section are not penal in their nature; they prescribe a remedy by civil suit for the violation of the marital obligations. The act of 1872, ch. 272, is valid, although it had a retroactive operation. *Elliott v. Elliott*, 38 Md. 361; *Dimpfel v. Wilson*, 107 Md. 338; *Herbert v. Gray*, 38 Md. 534.

A divorce *a vinculo* and a divorce *a mensa* distinguished; neither will be granted save for the causes set out in the respective sections dealing with the same. The court will not decree a divorce *a mensa* where the only ground alleged is adultery—how such question may be raised. *Stewart v. Stewart*, 105 Md. 301. And see *Schwab v. Schwab*, 93 Md. 382.

This section does not confer upon the courts jurisdiction of divorce cases other than those specifically enumerated. *Wright v. Wright*, 2 Md. 450.

The mere failure of a husband to support his wife and children does not authorize a divorce *a vinculo*. *Wheeler v. Wheeler*, 101 Md. 433.

The right of the husband to a divorce on the ground of impotence existing at time of marriage, is not lost by the execution of a voluntary deed of separation. *J. G. v. H. G.*, 33 Md. 406.

For a case dealing with the acts of 1841, ch. 262, and 1844, ch. 306, and passing upon the effect upon an application for divorce under this section